

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;)	CIVIL NO. CV03-00385 SOM-LEK
)	(Copyright)
Plaintiff,)	
)	DECLARATION OF LEX R. SMITH;
vs.)	
)	
HAWAIIAN EXPRESS SERVICE,)	
INC., et al.,)	
)	
Defendants.)	
_____)	

DECLARATION OF LEX R. SMITH

LEX R. SMITH declares as follows:

1. I am an attorney licensed to practice law before this Court and I am one of the attorneys representing C&S Logistics of Hawaii, LLC, C&S Wholesale Grocers, Inc., C&S Acquisitions, LLC, ES3, LLC and Richard Cohen (“Movants”) in this case.

2. By Order entered March 2, 2007, the Honorable Susan Mollway awarded attorneys’ fees in favor of Movants and against Plaintiff Wayne Berry in the amount of \$84,758.98. The March 2 order is a final and enforceable judgment.¹

¹ See Order Declining Defendants' Request For Additional Entry Of Judgment entered herein on May 21, 2007.

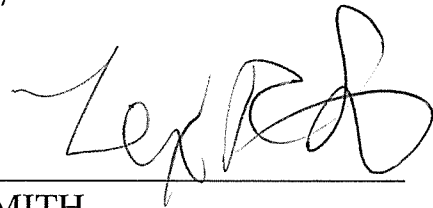
3. While the judgment has been appealed, it has not been reversed, modified, or set aside, in whole or in part, and remains in full force and effect.²

4. Pursuant to the judgment, there is no due and owing to Movants the principal sum of \$84,758.98 exclusive of post judgment interest, post judgment attorneys' fees and other costs of collection. The judgment remains unsatisfied.

5. Movants request that this ex parte motion is granted so that Movants can pursue appropriate remedies against Wayne Berry.

The foregoing is true under penalty of perjury.

DATED: Honolulu, Hawaii, May 23, 2007

A handwritten signature in black ink, appearing to read 'Lex R. Smith', is written over a horizontal line.

LEX R. SMITH

² *Id.*